

REMARKS

Claims 1-32 are pending in the present application. The Office Action and cited references have been considered. Favorable reconsideration is respectfully requested.

Claims 1-32 were rejected under 35 U.S.C. 103(a) over Deshpande et al. (U.S. Patent Application Publication 2002/0059458), taken alone or, with respect to some of the dependent claims, in view of Kalra et al. (U.S. Patent 6,490,627). Applicants respectfully traverse this rejection, on the grounds that the invention recited in claims 1-32 was reduced to practice prior to July 25, 2001, which is the effective date of Deshpande as a possible reference against the claims in this application.

The Examiner cited Deshpande as allegedly disclosing the use of servlets in parsing a client request and in streaming elements of a media file to a client, as recited in the independent claims of the present patent application (page 3 in the Official Action). Deshpande was filed July 25, 2001, as a continuation-in-part of U.S. Patent Application 09/709,985, filed November 10, 2000. Deshpande can be effective as prior art against the claims in the present patent application as of the parent filing date, however, only to the extent that the parent application discloses the subject matter that is cited in the present Official Action.

As noted in MPEP 706.02(f) (1) (B): "The 35 U.S.C. 102(e) date of a reference... is its earliest effective U.S. filing date, taking into consideration any proper benefit claims to prior U.S. applications under 35 U.S.C. 119(e) or 120 if the prior application(s) properly supports the subject matter used to make the rejection" (emphasis added). In other words, any disclosure made by Deshpande that does not also appear in the parent application is effective as prior art only as of the filing date of Deshpande, July 25, 2001.

Careful inspection of U.S. Patent Application 09/709,985 reveals not a single mention or even suggestion of the use of servlets. Therefore, the effective date of Deshpande as a reference against the claims in the present application is the actual filing date of Deshpande, July 25, 2001. Applicants submit herewith a Declaration under 37 C.F.R. 1.131 proving that they conceived and reduced the present invention to practice prior to this date. Therefore, claims 1-32 are believed to be patentable over the cited art.

Applicants have studied the additional reference made of record by the Examiner and believe the claims in the present patent application to be patentable over these references, as well.

Applicants believe the remarks presented hereinabove to be fully responsive to all of the grounds of rejection raised by the Examiner. Applicants respectfully requests reconsideration and withdrawal of the outstanding rejections of record. In view of these remarks, Applicants respectfully submit that all of the claims in the present application are in order for allowance. Notice to this effect is hereby requested.

If the Examiner has any questions he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

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